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5 Attorney for Third Party Witnesses
6 Below the Blue,
7 Marine Taxonomic Services, Ltd,
Seth Jones, and Monique Rydel-Fortner

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9 UNITED STATES DISTRICT COURT

10 EASTERN DISTRICT OF CALIFORNIA

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12 CALIFORNIA SPORTFISHING
13 PROTECTION ALLIANCE,

14 Plaintiff,
15 v.
16 PACIFIC BELL TELEPHONE COMPANY
17 Defendant.

Case No. 2:21-cv-00073-JDP

**DECLARATION OF
JOSHUA KOLTUN**

Joshua Koltun ATTORNEY

1 I, Joshua Koltun, declare as follows:

2 1. On July 27, Defendants sent the Wall Street Journal a subpoena for documents
3 concerning its reporting on lead-clad cables. That subpoena was later served, but then withdrawn.

4 2. I first spoke to Seth Jones on November 22, the day before Thanksgiving, and agreed
5 to act as counsel for the Below the Blue, Marine Taxonomic Services, Seth Jones and Monique
6 Ryder-Fortner (“MTS Entities”) To be clear, I am not cocounseling with the Vance Center and have
7 had no dealings with them.

8 3. I am a solo practitioner. I have no associates or paralegals. I worked through the
9 Thanksgiving holiday to get on top of a veritable fire-hose of information. I have been reviewing
10 documents and interviewing his clients to understand the nature of the potentially responsive
11 documents and the facts and circumstances that surrounded the creation of those documents and
12 communications. I am an experienced First Amendment litigator and immediately recognized that
13 there is a large category of documents that are subject to the First Amendment reporters privilege.

14 4. On November 24, the day after Thanksgiving, I sent defense counsel an email
15 introducing myself as representing all four MTS entities, and proposed that, now that MTS had
16 obtained counsel, that Defendant stipulate to give MTS a brief opportunity to respond to the various
17 subpoenas so that the parties could expeditiously meet and confer and determine what disputes existed
18 and present any such disputes to the Court. I indicated that I was available during the rest of the
19 Thanksgiving holiday and could make myself available through the Christmas holidays.
20 Alternatively, I proposed that I move for reconsideration of this Court’s order compelling production,
21 and asked to meet and confer.

22 5. Defense counsel did not respond at all until Tuesday afternoon, November 28, at which
23 point they proposed talking the next day. That same evening I sent formal objections and responses to
24 the subpoenas on behalf of the MTS entities. Wednesday morning (today) defense counsel and I met
25 and conferred by Zoom call and followed up by email.

26 6. Defense counsel has declined to extend the deadline for BTB to produce documents,
27 which is November 30, tomorrow. They declined to extend the time to respond to an OSC to MTS in
28 the Southern District, also due tomorrow. They declined to stipulate that all matters concerning

1 discovery from the MTS entities be consolidated in this Court. Defense counsel has not indicated
2 whether they would oppose an extension of time for Beyond the Blue to file its Motion to Reconsider.
3 Defense counsel has not responded yet to an email I sent asking what times they are available next
4 week for the informal Zoom conference regarding the Motion to Reconsider that this Court requires
5 under its procedures.

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7 I declare under penalty of perjury under the laws of the United States that the foregoing is true and
8 correct.

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10 Executed on November 29, 2023 at San Francisco, CA.

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Joshua Koltun